

REMARKS/ARGUMENTS

Art Rejections

Claims 1-84 were examined on their merits. Claim 1, 21, 23, 25, 43, 63, 65, and 67 have been amended. Therefore, claims 1-84 are currently pending in the present application.

1. Claims 1-19, 21-42, 43-61, 63-84 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Voges, U.S. Patent No. 5,894,891 (“Voges”). These rejections are respectfully traversed for at least the following reasons. Claims 1, 21, 23, 25, 43, 63, 65, and 67 are all independent claims. Claims 2-19 ultimately depend from independent claim 1. Claim 22 depends from claim 21. Claim 24 depends from independent claims 23. Claims 26-42 ultimately depend from independent claim 25. Claims 44-62 ultimately depend from independent claim 43. Claims 64 depends from independent claim 63. Claims 66 depends from independent claim 65. Claims 68-84 ultimately depend from independent claim 67.

To be an “anticipation” rejection under 35 U.S.C. § 102(b), the reference must teach every element and recitation of the Applicants’ claims. Rejections under 35 U.S.C. § 102(b) are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the reference must clearly and unequivocally disclose every element and recitation of the claimed invention.

Voges is deficient as an anticipatory reference in relation to as amended independent claims 1, 21, 23, 25, 43, 63, 65, and 67 of the present patent application for at least the following reasons. The device disclosed by Voges does not disclose the feature of the claimed subject matter of

“a housing comprising an inlet and an outlet between which is formed an airflow path wherein the inlet is directly behind the reservoir and in which at least the ejection head

is disposed in the air flow path downstream of the inlet and upstream from the outlet, wherein the housing provides for a substantially unobstructed airflow between the ejection head and the outlet when air traverses the airflow path from the inlet to the outlet.”

As to independent claims 1, 21, 23, 25, 43, 63, 65, and 67, Voges (“841”) discloses a device (fig.2) that comprises a series of inlet (7) that are laterally position with respect to the reservoir (10) which differs in both the manner of airflow intake (i.e., how the intake air flows from the sides and not from the rear) and the location of the inlet with respect to the reservoir (10). Because each element of the invention is not present in Voges, Voges cannot anticipate the claimed subject matter. As such, the Examiner is respectfully requested to withdraw the § 102(b) rejection as to independent claims 1, 21, 23, 25, 43, 63, 65, and 67 and from the claims that depend therefrom.

2. Claim 20 and 62 stands rejected under 35 U.S.C. § 103(a) as being obvious and unpatentable over Voges in view of Gonzalez, U.S. Patent No. 455,614 (“Gonzalez”). Claim 20 depends from independent claim 1 and Claim 62 depends from independent claim 43 which Applicant has shown to be patentable over Voges for at least the reasons stated above which are fully incorporated herein.

Because Voges is deficient with respect to claims 20 and 62 for at least the reasons stated above, the Examiner must rely on Gonzalez to compensate for the foregoing deficiencies of Voges.

Gonzalez is directed to a smoking device for delivering an aerosolized compound. More specifically, Gonzalez describes a smoking device that contains an inlet (a), reservoir (a’) located beneath the inlet, a smoke passage (A’), and a sponge (B) acting as a filter that separates the inlet (a) and mouthpiece (e’). Absent from Gonzalez, however, is any disclosure, teaching or suggestion for

a housing comprising an inlet and an outlet between which is formed an airflow path wherein the inlet is directly behind the reservoir and in which at least the ejection head is disposed in the air flow path downstream of the inlet and upstream from the outlet, wherein the housing provides for a substantially unobstructed airflow between the ejection head and the outlet when air traverses the airflow path from the inlet to the outlet as recited in independent claims 1, 21, 23, 25, 43, 63, 65, and 67.

Because there can be found in Gonzalez no teaching or suggestion that meets the above-identified limitations, the combination of Voges and Gonzalez cannot reasonably be said to render obvious the claimed subject matter. The Examiner is therefore respectfully requested to withdraw the § 103(a) rejection from claims 20 and 62.

CONCLUSION

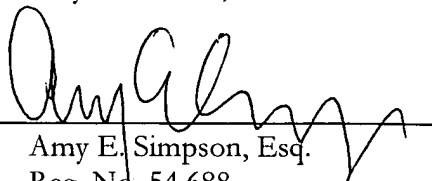
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

After the above Amendments, claims 1-84 are still pending in the application, of which claims 1, 21, 23, 25, 43, 63, 65, and 67 are independent claims. Thus, there are 84 total claims and 8 independent claims.

Applicant is concurrently filing herewith a Request for Continued Examination and a Request for a Three-Month Extension of Time, along with the requisite fee. In the event that a variance exists between the amount tendered and that required by the U.S. Patent and Trademark Office requires to enter and consider this Reply, or to prevent abandonment of the present application, please charge or credit such variance to the undersigned's Deposit Account No. 50-2613 (Order Number 38466.00008.UTL1.P1068).

Respectfully Submitted,

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